

STATE OF MICHIGAN  
CIRCUIT COURT FOR THE 30TH JUDICIAL DISTRICT  
INGHAM COUNTY

KEN ROSS, COMMISSIONER,  
OFFICE OF FINANCIAL AND INSURANCE REGULATION  
FOR THE STATE OF MICHIGAN,

Petitioner,

File No. 03-1127-CR

vs

Hon. William E. Collette

THE WELLNESS PLAN,  
a Michigan Health Maintenance Organization,

Respondent.

MARK J. ZAUSMER (P31721)  
AMY M. SITNER (P46900)  
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REHABILITATOR'S VERIFIED PETITION  
TO TRANSFER POSSESSION OF ASSETS AND CONTROL OF THE BUSINESS,  
APPROVE THE ACTIONS OF THE REHABILITATOR,  
DISCHARGE THE REHABILITATOR, TERMINATE RECEIVERSHIP,  
CLOSE THE CASE AND FOR RELATED RELIEF

Ken Ross, Commissioner of the Office of Financial and Insurance Regulation, in his capacity as Rehabilitator of The Wellness Plan, through his attorneys, Zausmer, Kaufman, August, Caldwell & Tayler, P.C., consistent with MCL 500.8116(2) and MCL 500.8114, asks the Court to enter a Final Order Transferring Possession of the Assets and Control of the Business, Approving the Actions of the Rehabilitator, Discharging the Rehabilitator, Terminating Receivership, Closing the Case and For Related Relief ("Final Order"). In support of this Verified Petition, the Rehabilitator states as follows:

## HEARING

1. This Verified Petition is scheduled for hearing on July 28, 2009, at 1:30 p.m. or as soon thereafter as counsel may be heard.

## GENERAL MATTERS

2. The Wellness Plan ("TWP") was placed into formal rehabilitation proceedings ("Receivership") under Chapter 81 of the Insurance Code of 1956, MCL 500.8101 *et seq.*, by order of this Court on July 1, 2003. TWP was, at that time, a health maintenance organization with 103,000 members. It provided health care services in several service areas, although its primary membership was located in southeast Michigan. Most of its members were recipients of health services under Medicaid.

3. Pursuant to MCL 500.8114, the Court appointed Linda A. Watters, the Commissioner of the Office of Financial and Insurance Services ("OFIS"), as the Rehabilitator. The Court directed the Rehabilitator to take immediate possession of the assets of TWP and to administer those assets under the Court's general supervision. The Court also authorized the Rehabilitator to appoint one or more Deputy Rehabilitators consistent with MCL 500.8114(1).

4. As of November 1, 2007, by appointment of the Governor, Ken Ross became the duly-appointed Acting Commissioner of OFIS, and thus became the successor Rehabilitator of TWP. Mr. Ross was subsequently appointed Commissioner on February 22, 2008.

5. Effective April 6, 2008, the Governor, through Executive Order 2008-02, reorganized OFIS and changed its official name to the Office of Financial and Insurance Regulation ("OFIR").

6. As related more fully below, the rehabilitation of TWP has been successfully accomplished through:

- a. Transforming TWP from a full-service HMO to a system of medical clinics overseen by a new Board of Directors and Executive Director;
- b. Securing Federally Qualified Health Center ("FQHC") look-alike and 340b pharmacy designations, both of which provide for enhanced funding that has made TWP's operations financially sustainable;
- c. Selling the right to service TWP's HMO Medicaid members to other HMOs, with many members then being assigned back to TWP's clinics;
- d. Using the funds secured from the sale of the servicing rights to pay in full the claims of TWP's medical providers and members; federal, state and local government creditors and general creditors;
- e. Using funds in TWP's self-insured medical malpractice trust to pay all litigation expense and settlement costs to resolve some 60 medical malpractice claims as well as to pay for a tail policy to protect the ongoing company from claims incurred but not reported during the pre-rehabilitation and rehabilitation periods;
- f. Securing new medical malpractice coverage for TWP and its physicians.

7. By this Verified Petition, the Rehabilitator seeks generally to provide for the transfer of the assets of TWP, and control of the business, to the Board of Directors (the "FQHC Board") that will continue to operate the clinics following termination of the

Receivership; to terminate the Receivership, close the case, and discharge the Receiver. More specifically, among other things, the Rehabilitator, through this Petition, seeks the following:

- a. Establishment of the terms under which possession of the assets and control of the business of TWP will be transferred to the FQHC Board;
- b. Approval of all actions taken or not taken by the Rehabilitator;
- c. Discharge of and release of all claims against the Rehabilitator;
- d. Implementation and enforcement of the bar order; and
- e. Entry of a final order terminating the Receivership and closing the case.

#### THE AUTHORITY OF THE REHABILITATOR TO ACT

8. The Rehabilitator has acted throughout the Rehabilitation proceeding pursuant to authority granted him in Section 8114 of the Insurance Code of 1956, MCL 500.8114, which provides in pertinent part:

(2) The rehabilitator may take such action as he or she considers necessary or appropriate to reform and revitalize the insurer including, but not limited to, the powers in section 8121(1)(f), (l), (m), (r), and (u). The rehabilitator has all the powers of the directors, officers, and managers, whose authority shall be suspended, except as they are redelegated by the rehabilitator. The rehabilitator has full power to direct and manage, to hire and discharge employees subject to any contract rights they may have, and to deal with the property and business of the insurer.

\* \* \*

(4) If the rehabilitator determines that reorganization, consolidation, conversion, reinsurance, merger or other transformation of the insurer is appropriate, he or she shall prepare a plan to effect those changes. Upon application of the rehabilitator for approval of the plan, and after notice and hearings as the court may prescribe, the court may either approve or disapprove the plan proposed, or may modify it and approve it as modified. A plan approved under this section shall be, in the court's

judgment, fair and equitable to all parties concerned. If the plan is approved, the rehabilitator shall implement the plan.

(Emphasis added).

9. The Rehabilitator has legal title to all of the assets of TWP pursuant to Section 8113 of the Insurance Code of 1956, MCL 500.8113, which provides in pertinent part:

(1) An order to rehabilitate the business of a domestic insurer, or an alien insurer domiciled in this state, shall appoint the commissioner and his or her successors in office as the rehabilitator, and shall direct the rehabilitator to take immediate possession of the assets of the insurer, and to administer them under the court's general supervision. The filing or recording of the order with the clerk of the circuit court or register of deeds for the county in which the principal office or place of business is located, shall impart the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that register of deeds would have imparted. The order to rehabilitate the insurer shall by operation of law vest title to all assets of the insurer in the rehabilitator.

(Emphasis added).

### BACKGROUND

10. At the time it was placed into rehabilitation, TWP's primary business asset was a Medicaid contract with the Michigan Department of Community Health ("MDCH"). That Medicaid contract expired on September 30, 2004. In order to remain economically viable, TWP needed to submit a successful bid for a new Medicaid contract.

11. By April, 2004, the Rehabilitator had concluded that TWP likely would not meet the statutory financial requirements and therefore would not be eligible to receive a new Medicaid contract beginning October 1, 2004. Therefore, while continuing to prepare a bid for a Medicaid contract, with Court approval, the Rehabilitator solicited offers to purchase some or all of the assets of TWP in the hope of completing a sale in time for the prospective purchaser

to submit a bid for a new Medicaid contract. Without such a sale of assets to a qualified bidder, it was feared that the MDCH would reassign TWP's Medicaid members to other HMOs effective no later than October 1, 2004, without compensation to TWP, leaving TWP without sufficient assets to satisfy its creditors. After hearing objections from interested parties on April 26 and 30, 2004, the Court approved a sale to Amerigroup by order dated April 30, 2004.

12. On May 6, 2004, Amerigroup notified the Rehabilitator that it was unwilling to complete the purchase of TWP's assets as agreed. Accordingly, the Rehabilitator met with the Court on May 10, 2004, to inform the Court and to consider various options in light of Amerigroup's decision and the May 17 deadline for submission of bids for Medicaid contracts. The Rehabilitator suggested, and the Court agreed, that TWP should submit its bid for a Medicaid contract with MDCH by the May 17 deadline. MDCH subsequently did not select TWP for a new Medicaid contract beginning October 1, 2004.

13. On May 11, 2004, this Court issued an order authorizing the Rehabilitator to solicit offers to purchase all or part of the membership of TWP from licensed Michigan HMOs that intended to bid for Medicaid contracts with MDCH. That order called for such offers to be received by the Rehabilitator no later than 2 p.m. EDT on June 2, 2004, and set out a tentative timetable subject to adjustment by the Rehabilitator.

14. The Rehabilitator received qualifying offers from six licensed Michigan HMOs. The Rehabilitator carefully reviewed each submission to determine which offer or offers were in the best interest of TWP, its members, the creditors, the providers, and the public, and which offer or combination of offers best satisfied the factors set forth in the Rehabilitator's May 12, 2004 solicitation of offers letter. The Rehabilitator thereafter petitioned the Court for approval

of a proposed sale. The sale of the right to service TWP's Medicaid members constituted the "plan" for transformation of the insurer contemplated under MCL 500.8114(4). Consistent with this statutory section, interested parties were notified, as required in an order of the Court dated June 18, 2004, and a hearing held on July 21, 2004.

15. The Court, by Order dated July 21, 2004, approved the sale of the right to serve 86,012 Medicaid members to three different health maintenance organizations: Molina Health Plan, Total Health Plan and McLaren Health Plan. The July 21, 2004 Order stated the judgment of the Court that the plan presented was fair and equitable to all parties concerned. The sale of the right to service these members enabled TWP to raise \$22,693,471, which then became available for payment of pre-rehabilitation and post-rehabilitation obligations of TWP.

16. Following the sale of the right to service the Medicaid members and the expiration of TWP's Medicaid contract on September 30, 2004, TWP's remaining business was that of a non-profit company operating 3 medical clinics serving mainly Medicaid patients assigned to it by other HMOs. Consistent with this transformation of the business, TWP's HMO license was surrendered effective December 19, 2005. Its Articles of Incorporation and Bylaws were amended by the FQHC Board on November 9, 2005, to reflect the new corporate purpose and structure. The Amended Articles were signed by the Deputy Rehabilitator on December 16, 2005, and filed with the State on January 23, 2006.

17. From October 1, 2004 forward, the task of the Receiver was essentially three-fold – first, to wind up the HMO business, including processing the post-rehabilitation medical claims; second – to resolve TWP's pre-rehabilitation creditor claims; and third – to operate and administer TWP's medical clinic business so as to put the business on a firm financial footing

that would allow it to continue to provide needed services to the medically under-served population in and around Detroit.

18. TWP's post-rehabilitation medical provider claims processing was resolved in the ordinary course of business and all claims paid or otherwise resolved by January 12, 2006.

19. TWP's pre-rehabilitation creditor claims were resolved through a Court-approved process. Proofs of claim were filed pursuant to an Order entered on September 11, 2003. The Court approved claims adjudication procedures for pre-rehabilitation medical provider and vendor claims on December 2, 2004. Based on these procedures, a mailing went out to trade vendors on December 27, 2004, and a mailing went out to providers on February 14, 2005. TWP received no objections to the amount the Rehabilitator proposed to pay to trade vendors for their pre-rehabilitation claims. TWP received 132 objections to the amount the Rehabilitator proposed to pay for pre-rehabilitation medical provider claims. The Rehabilitator subsequently was able to amicably resolve all of these objections.

20. To establish a priority for final resolution of creditor claims against TWP, the Rehabilitator in February 2005 asked the Court to establish a notice procedure and set a briefing and hearing schedule to determine the order in which pre-rehabilitation claims would be addressed and paid by the Rehabilitator. On June 27, 2005, the Court ordered that the claims would be adjudicated and paid in the priority that claims would be given in a liquidation proceeding under Chapter 81 of the Insurance Code. MCL 500.8142. The Court further held that claims of medical providers against TWP would be categorized as Class 2 (policyholder status) claims rather than as Class 5 (general creditor) claims. The Court further held that, to



the extent they were not covered by insurance, personal injury claims -- including medical malpractice claims -- had a Class 4 priority for payment from the general assets of TWP.

21. On August 5, 2005, the Rehabilitator filed with the Court a Petition for an Order Approving The Rehabilitator's Pre-Rehabilitation Medical Provider Claim Determinations and Allowing Disbursement of Funds to Pay Approved Pre-Rehabilitation Medical Provider Claims. The Court set a hearing date of August 31, 2005, and on that date approved the Rehabilitator's Petition. As result, the Rehabilitator disbursed \$15,079,268 to pay Pre-Rehabilitation medical provider claims. On October 4, 2005, the Court approved a Supplemental Order Approving Rehabilitator's Pre-Rehabilitation Medical Provider Claims Determinations and Allowing Disbursement of Funds to Pay Approved Pre-Rehabilitation Medical Provider Claims. TWP disbursed \$97,960 under this order to suppliers that provided medical supplies used for the treatment of TWP members. As of October 2005, the only unresolved medical provider claim was a claim filed on behalf of the Detroit Medical Center.

22. Following payment of all pre-rehabilitation and post-rehabilitation medical provider claims, with the exception of the Detroit Medical Center claim, the Rehabilitator continued the process through adjudication and payment of medical malpractice claims. These claims and the related litigation expense were paid entirely from a self-insurance trust established by TWP prior to rehabilitation, except for a few cases that were covered by other primary insurance purchased either before or during rehabilitation. On December 5, 2005, the Court issued an Order Granting in Part Rehabilitator's Petition to Approve Preliminary Claims Adjudication Procedures for Medical Malpractice Claims, allowing the Rehabilitator to settle and pay medical malpractice claims with the Court's approval. On January 17, 2006, the Court

approved the Rehabilitator's Petition to Approve Preliminary Claims Adjudication Procedures for Medical Malpractice Claims and Granting Further Relief. The Court's approval allowed the Rehabilitator to file motions for summary disposition of claims that were deemed insufficient by law after a hearing before the Court. The Court also approved streamlined discovery and facilitation procedures. Prior to this process, TWP had 50 medical malpractice cases pending. Subsequent notice of claims increased the total number of medical malpractice or negligent injury claims addressed during Receivership to 61. Implementation of the approved procedures resulted in 29 dismissals, 28 settlements and informal withdrawal of two claims based on lack of evidence that any Wellness Plan doctor was involved. One suit and one Notice of Intent to File Claim are pending, but both have primary coverage under a DMC Insurance policy.

23. During the period from early 2006 through early 2009, the Rehabilitator continued working to resolve the remaining claims and presented multiple petitions for approval and payment of settlements related to the remaining Class 2 claim of the Detroit Medical Center and to specific Class 3 (federal government), Class 4 (personal injury) and Class 5 (general creditor) claims. All settlements were approved by the Court and paid consistent with the Court's orders. By early 2009, the Rehabilitator had resolved and paid all Class 2 and Class 3 claims and the vast majority of Class 4 Claims. The final important piece to fall into place in early 2009 was the resolution of two disputed Class 5 (general creditor) claims. One of these claims was filed by TWP's wholly-owned Texas subsidiary, WellChoice. The Texas Liquidator of WellChoice filed the claim on the theory that TWP had guaranteed to back WellChoice, and the Texas authorities had, therefore, allowed WellChoice to continue

operating in Texas when it otherwise would have been liquidated sooner. Following a successful effort in Texas court, the Rehabilitator settled this \$6 million claim for \$2 million.

24. On May 7, 2009, the Court entered an Order Approving The Rehabilitator's Pre-Rehabilitation Class 5 And Class 6 Claim Determinations And Allowing Disbursement Of Funds To Pay Approved Pre-Rehabilitation Class 5 And Class 6 Claims. As a result, TWP issued payments to Class 5 creditors totaling \$566,953.34 (not including the amount of the settlements in the two disputed claims mentioned in paragraph 23 above, payment of which was separately approved), resolving all remaining Class 5 claims. TWP also issued payments to Class 6 creditors totaling \$60,653.44, resolving all Class 6 claims.

25. On June 1, 2009, the Court entered an Order Approving the Rehabilitator's Pre-Rehabilitation Class 7 Claim Determinations And Allowing Disbursement Of Funds To Pay Approved Pre-Rehabilitation Class 7 Claims, which resulted in payout of \$161,021.90 to Class 7 (late-filed) claimants and final resolution of the last outstanding pre-rehabilitation claim other than 1 medical malpractice claim that is insured under a DMC Insurance policy and being handled by counsel appointed by DMC Insurance.

26. In order to provide additional assurance that TWP, once released from Rehabilitation, would not be burdened with medical malpractice claims incurred during or prior to Receivership, the Rehabilitator, working with counsel and an insurance agent, entered into a process to solicit bids for a tail policy to cover medical malpractice claims incurred but not reported prior to the policy date and that are subsequently filed prior to May 30, 2015. With the cooperation of TWP's Clinic Board of Directors, the Rehabilitator selected the proposal from Pro Assurance Corporation covering each covered person and TWP for policy limits of

\$1,000,000/\$10,000,000 and defense costs outside of limits at a cost of \$1,475,000, which was paid entirely from the self-funded medical malpractice trust.

27. While working to resolve pre-rehabilitation claims, the Rehabilitator simultaneously took steps to improve the business posture of TWP's medical clinics. Beginning in January 2005, the Rehabilitator began the process of obtaining a Federally Qualified Health Center (referred to as "FQHC") "look-alike" designation for the three Wellness Plan medical clinics from the Health Resources and Services Administration ("HRSA") in order to eliminate the losses of continued operation of the medical clinics. Effective October 22, 2007 the Department of Health and Human Services' Centers for Medicare and Medicaid Services ("CMS") granted all of TWP's clinics FQHC look-alike status. TWP pharmacies received a 340b designation from CMS with an effective date of January 1, 2008. Both the FQHC look-alike designation and the 340b drug pricing designation have enabled TWP's three operating clinics and associated pharmacies to begin operating on a profitable basis. As reported in the Rehabilitator's Final Report and Accounting filed on July 7, 2009, prior to the receipt of the FQHC look-alike designation in October 2007, the medical centers operated at a loss of approximately \$200,000 a month. With the FQHC look-alike designation, the medical clinics have shown an operating profit averaging \$140,000 per month despite lower membership. Similarly, TWP pharmacies reported average monthly income of \$21,000 for the first five months of 2009 compared with monthly losses of \$30,000 in 2007 prior to the 340b designation.

28. TWP has also, during rehabilitation, moved away from reliance on a self-insurance trust and instead has purchased outside coverage for TWP and its employed

physicians and health professionals. The coverage has been periodically re-evaluated on the basis of price and coverage. Most recently, in connection with securing the tail coverage discussed above, TWP obtained coverage going through Pro-Assurance with coverage limits of \$1 million/\$3 million.

29. Under HRSA regulations, TWP's FQHC look-alike designation must be recertified annually. TWP filed its recertification materials with HRSA in August 2008 and received renewal of its FQHC look-alike status on December 4, 2008.

TRANSFER OF POSSESSION OF ASSETS AND CONTROL OF THE BUSINESS  
TO THE BOARD THAT WILL CONTINUE TO OPERATE THE MEDICAL CLINICS

30. TWP was a Michigan not-for-profit company under Internal Revenue Code Section 501(c)(3) at the time it was placed in Receivership. It was operated under the control of a Board of Directors (the "HMO Board").

31. The Rehabilitation Order suspended all powers of the HMO Board as well as of the officers and managers of TWP and vested title to all assets of TWP in the Rehabilitator.

32. As discussed above, as a result of the transformation of TWP from an HMO to a company operating medical clinics, the HMO license was surrendered and the corporate Articles and Bylaws were amended to reflect the new corporate structure and purpose. The powers of the HMO Board were, thus, finally terminated.

33. The application for an FQHC designation required that the corporate structure of TWP be amended, including appointment of a new 11-member Board to meet specific federal requirements for an FQHC Board. The new Board first met in November 2005 and has continued to meet monthly since that time. The FQHC Board thereafter selected an Executive

Director, subject to the approval of the Rehabilitator and the Court. The Employment Agreement for the Executive Director, Anthony King, was approved by the Court by Order dated May 7, 2007.

34. The FQHC Board and the Executive Director, subject to the supervision of the Rehabilitator and the Court, have been operating the medical clinics for over two years.

35. Section 8116(2) of the Insurance Code, MCL 500.8116(2), states that “the rehabilitator may petition at any time the circuit court for Ingham county for an order terminating the rehabilitation of an insurer.” That section further states that “[i]f the court finds that the rehabilitation has been accomplished and that the grounds for rehabilitation under section 8112 no longer exist, it shall order that the insurer be restored to possession of its property and the control of its business.” While the FQHC Board does not qualify as an “insurer,” it is the successor Board under the Bylaws of TWP.

36. Consistent with the statute, therefore, the Rehabilitator seeks to formally transfer possession of TWP’s property and the control of its business to the FQHC Board, which will continue to operate as The Wellness Plan.

37. The Rehabilitator asks the Court to order that funds in an amount to be presented to the Court under seal, and provided to the FQHC Board, be reserved from the general assets of TWP and placed in a separate account for potential payment of (1) judgments or settlements and (2) attorney and other litigation fees and expenses, up to and including expenses of appeal, if necessary, associated with the defense of the following matters that are currently pending in this Court under the Rehabilitation case number: *Thomas v TWP*; *Byrd v TWP*; *Green v TWP*.

The Rehabilitator asks the Court to further order that the FQHC Board may access these funds from time to time for payment of settlements, judgments and/or litigation expenses, provided that it petitions this Court for permission to do so and further, that, the Board seeks this Court's approval for any final resolution of these matters, whether through dismissal, settlement, judgment or otherwise, and obtain Court approval for its intended final disposition of the reserved funds, including the release of any unexpended funds to TWP's general fund.

38. The Rehabilitator asks the Court to order the FQHC Board to assume and pay all expenses incurred or to be incurred with respect to the Receivership, including but not limited to the following:

- a. Invoices for services provided to the Rehabilitator and/or TWP by OFIR on or prior to the date of entry of the Order.
- b. Any unpaid and owing severance, medical pension, pension plan and other similar obligations with respect to current and former employees of TWP and all future medical pension, pension plan and other similar obligations of TWP that will accrue with respect to former employees;
- c. Invoices for legal services provided to the Rehabilitator and/or TWP by the firms of Zausmer, Kaufman, August, Caldwell & Tayler, P.C., and Grier, Copeland & Williams, P.C., on or prior to the date of entry of the Order.
- d. Other expenses, including attorney fees and costs, that may be incurred by the Rehabilitator in the ordinary course of accomplishing the final transfer of the assets and control of the business and preparing the final accounting;

- e. Costs of storage for 5 years of the Deputy Rehabilitator's records that have been maintained at TWP's offices;
- f. Costs of the defense and liability or potential liability with respect to causes of action that accrued or may have accrued during the Receivership, including but not limited to the matters listed in paragraph 37 above.
- g. Payment of medical malpractice settlements approved by the Court but unpaid as of the date of the Order. The relevant settlements, as of the date of filing of this Petition, are in the following matters: (1) *Byron Jorell Clark, a minor, by his Next Friend, Trena Clark*; (2) *Camille Snell, a minor, and Twila Snell, her mother and* (3); *Duane Russell, a minor, by his mother, Courtney Rhodman*.
- h. Tax-filing responsibilities and tax liabilities, if any, for the Receivership period, including but not limited to any property taxes determined to be due to the City of Oak Park upon resolution of Michigan Tax Tribunal Docket No. 0345600.

39. The Rehabilitator asks the Court to order that the Rehabilitator or his designee shall retain authority and shall cooperate with the FQHC Board to take any action, including execution of documents, necessary to fully accomplish the transfer of the assets and control of the business of TWP to the FQHC Board, including but not limited to signing bank signature cards, substitutions of counsel, transfer of authority over accounts, assignments of receivables, and any documents required to ensure that the FQHC Board receives the full benefit of the assets of and control of the business of TWP.

40. The Rehabilitator asks that the Court order the FQHC Board, within 21 days after entry of the Order, to notify the Rehabilitator's counsel regarding transfer of any legal files



held by counsel, subject to the terms of any retention agreement. The pursuit of any existing receivable of TWP, including but not limited to the suit pending in this Court captioned *Ross v. Garden City Hospital Professional Staff, P.C.*, pending under Ingham County Circuit Court Case No. 09-785-CK, and any pending pharmaceutical class action suits, shall be the responsibility of and at the discretion of the FQHC Board.

41. The Rehabilitator asks the Court to retain jurisdiction to enforce these and other terms of its Order.

REQUEST FOR COURT APPROVAL OF ALL ACTIONS  
TAKEN OR NOT TAKEN BY THE REHABILITATOR

42. In general, the Rehabilitator has, from the inception of the rehabilitation on July 1, 2003, taken possession of TWP's assets, marshaled assets, compromised claims, mitigated liabilities, sought and received recovery from various individuals and entities, and administered the business of the Receivership as provided in the Insurance Code of 1956, as amended. The Rehabilitator has done so under this Court's general supervision.

43. The initial Rehabilitator, the current Rehabilitator, Ken Ross, and their designees have complied with this Court's directives.

44. As required by law, MCL 500.8113(2), and the Rehabilitation Order, the Rehabilitator has filed annual interim reports and accountings with the Court since the inception of this Receivership. The Receiver's Final Report and Accounting, filed on July 7, 2009, reported on the Rehabilitator's activities from July 1, 2008 through May 30, 2009.

45. In addition, throughout the course of this receivership, the Rehabilitator sought Court approval of all material transactions.

46. Based on all of the foregoing, the Rehabilitator seeks an order providing that all actions taken or not taken by the Rehabilitator and his predecessor, their deputy receivers, accountants, agents, attorneys, successors, officers, directors, special deputies and assigns are approved and that such actions taken or not taken have been properly executed, have met the requirements of Chapter 81 of the Insurance Code, and, in general, the law of the State of Michigan as ascertained by and reviewed by this Court through the date of hearing.

REQUEST FOR DISCHARGE OF RECEIVER AND  
RELEASE FOR ALL CLAIMS AGAINST THE RECEIVER

47. Consistent with the above, the Rehabilitator seeks an order from the Court confirming that the rehabilitation of TWP has been accomplished and that the grounds for rehabilitation under MCL 500.8112 no longer exist.

48. The Rehabilitator further seeks an order that the Rehabilitator and his deputy rehabilitators, accountants, agents, attorneys, successors, officers, directors, special deputies and assigns are fully, finally and unconditionally discharged and released from any duties, obligations and liabilities with respect to the rehabilitation estate of TWP from July 1, 2003 up to and including the entry of the Final Order.

REQUEST FOR BAR ORDER FOR ALL CLAIMS  
AGAINST THE RECEIVER

49. The Rehabilitator also requests an order that all claims and causes of action against the Rehabilitator, and his deputy rehabilitators, accountants, agents, attorneys, successors, officers, directors, special deputies and assigns for any and all actions taken or not taken on or after July 1, 2003 up to and including the entry of the Final Order shall be completely and forever barred, and that from and after entry of the Final Order the Receiver

shall have no further responsibility or obligation under Chapter 81 of the Insurance Code or the laws of the state of Michigan with respect to any matter relating to the Receivership of TWP, except as specifically set forth in the Final Order.

50. After release of the assets to the FQHC Board, the Rehabilitator shall file a simple accounting (the "Post-Closure Accounting"), accounting for the receipt and disbursement of all funds after the coverage period of the Rehabilitator's Final Report. The FQHC Board shall be required to cooperate with the Rehabilitator or his designee(s) to accomplish this accounting.

#### REQUEST FOR FINAL ORDER CLOSING ESTATE

51. The Rehabilitator seeks a final order, terminating the Receivership of TWP and closing this case.

52. The Rehabilitator further requests that no further reports be required of the Rehabilitator to any further person or entity, including, but not limited to, reports to this Court and reports to OFIR, other than as specified in the Final Order.

#### NOTICE

53. The Rehabilitator has served a copy of this Verified Petition upon all persons/entities and/or their counsel who are known to have outstanding or ongoing claims, suits or controversies that affect or that are or may be affected by the Receivership proceeding.

54. The Rehabilitator has or shortly will post a copy of this Petition on the State of Michigan website along with the other Wellness Plan documents previously posted there.

#### VERIFICATION

55. This Petition is verified by James Gerber, the Deputy Rehabilitator.

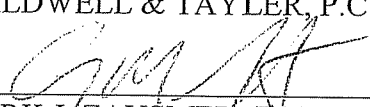
RELIEF REQUESTED

WHEREFORE, the Michigan Commissioner of the Office of Financial and Insurance Regulation, acting solely in his capacity as the court-appointed Rehabilitator of TWP, respectfully requests entry of a final order:

- a. Granting the Rehabilitator's Verified Petition to Transfer Possession of the Assets and Control of the Business, Terminate Receivership, Approve the Actions of the Rehabilitator, Discharge the Rehabilitator, Closing the Case and For Related Relief;
- b. Setting forth the conditions under which the assets of TWP and control of the business will be transferred to the FQHC Board.
- c. Approving all actions taken or not taken by the Rehabilitator;
- d. Unconditionally releasing the Rehabilitator and the Rehabilitator's past and present agents;
- e. Discharging the Rehabilitator and the Rehabilitator's agents;
- f. Barring all claims against the Rehabilitator;
- g. Terminating the Receivership;
- h. Closing the case; and
- i. Granting such other and further relief as equity requires.

Respectfully Submitted,

ZAUSMER, KAUFMAN, AUGUST,  
CALDWELL & TAYLER, P.C.

  
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Dated: July 17, 2009

Zausmer; Kaufman, August, Caldwell &amp; Tayler, P.C.,

## VERIFICATION

[illegible]

James Gerber, court-appointed Special Deputy to the statutory Rehabilitator of TWP, being first duly sworn, deposes and says that he makes this Verification on the Rehabilitator's behalf; that he has read the Verified Petition for Final Order Transferring Possession of the Assets and Control of the Business, Terminating Receivership, Approving the Actions of the Rehabilitator, Discharging the Rehabilitator, Closing the Case and For Related Relief, and that he executes the Petition for and on behalf of the Rehabilitator, and is duly authorized to do so; and that the matters contained in the Petition are true to his personal knowledge and/or are true to the best of his information and belief.

  
James Gerber

Subscribed and sworn to before me,  
a Notary Public in and for said County,  
this 17th day of July, 2009.

Nancy L. Craft, Notary Public  
State of Michigan, County of St. Clair  
My Commission Expires 11/23/2013  
Acting in the County of Oakland